

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

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In the Matter of:

THE FILING OF A BASIC RATE INCREASE)
AND A REQUEST FOR EMERGENCY INTERIM)
RELIEF BY OWEN COUNTY RURAL ELECTRIC) CASE NO. 8618
COOPERATIVE CORPORATION OF OWENTON,)
KENTUCKY, APPLICABLE TO ITS CUSTOMERS)

INTERIM ORDER

On September 9, 1982, Owen County Rural Electric Cooperative Corporation ("Owen County") filed an application with the Commission requesting authority to increase its revenue by \$2,084,825 annually, an increase of 13.4 percent over normalized annual revenue. Pursuant to KRS 278.190, Owen County also requested that the Commission grant an interim increase in revenue of the same amount effective October 13, 1982.

On September 20, 1982, the Consumer Protection Division of the Attorney General's Office filed a motion to intervene in this proceeding, which was sustained. A hearing concerning interim rate relief was held at the Commission's offices in Frankfort, Kentucky, on October 13, 1982.

Witnesses presented by Owen County at the hearing were Frank Downing, General Manager of Owen County; Mark Harper, Area Representative for National Rural Utilities Cooperative Finance Corporation ("CFC"); and James Blackburn of Central Associated

Engineers, Inc. Mr. Blackburn's prefiled testimony indicated that the failure of Owen County to achieve a times interest earned ratio ("TIER") of 1.5 for calendar year 1982 would place it in default on its mortgages with its lenders.⁽¹⁾ However, upon cross-examination of each of Owen County's witnesses it was revealed that the default provisions of the mortgage agreement with both the Rural Electrification Administration ("REA") and CFC had been misinterpreted and misrepresented to the Commission. Article II, Section 5, of the REA mortgage agreement and Section 5 of the CFC supplemental mortgage agreement state clearly that Owen County must achieve a TIER of 1.5 as determined by averaging the two highest annual TIER ratios for the most recent 3 calendar years.

Mr. Harper testified that although the CFC mortgage agreement does not require cooperatives to achieve a 1.5 TIER annually, CFC may impose certain restrictions on future borrowings of cooperatives who fail to maintain a 1.5 TIER annually. Mr. Harper did not state specifically the nature of these restrictions nor did he know for certain that these restrictions would⁽²⁾ be invoked against Owen County.

The Commission is concerned about the financial integrity of Owen County and its ability to achieve a reasonable TIER. In

(1) Blackburn prefiled testimony, page 3.

(2) Transcript of Evidence, October 13, 1982, pages 33-47.

prior rate Orders the Commission has recognized the requirements of Owen County's lenders and has allowed rate increases sufficient to provide Owen County the opportunity to earn a TIER in excess of the minimum TIER required by REA and CFC.

In considering the matter of interim rate relief the Commission has developed certain guidelines which were designed to assist utilities in their presentation to the Commission of evidence that their credit or operations will be materially impaired by failure of the Commission to grant interim rate relief. A copy of these guidelines was attached to the September 15, 1982, Order which scheduled this matter for hearing on the interim rate request. The interim rate guidelines require the evidence presented by the utility to reflect that the utility can not and will not, during the 5-month suspension period of a general rate case, be able to meet its financial obligations with the funds available to it during the interim period.

Owen County has clearly failed to demonstrate within the guidelines established by this Commission that interim rate relief is necessary in this instance. The projected monthly cash flow analysis supplied at the hearing reflects an improvement in available funds for operating costs. Moreover, Owen County has complied with the minimum mortgage requirements of its lenders by achieving an average TIER of greater than 1.5 for calendar years 1980 and 1981.

SUMMARY

Based on testimony at the October 13, 1982, hearing, the financial records on file at the Commission's offices and the record herein, the Commission is of the opinion that Owen County has fulfilled its obligation to its primary lenders by requesting an increase in rates at this time. This should demonstrate to Owen County's lenders that it is proceeding within statutory procedures to correct the current deficiencies in its annual earnings.

Owen County's request for interim rates on the basis of its projected earnings for calendar year 1982 does not demonstrate that Owen County's financial integrity will be materially impaired during the 5-month suspension period, and should therefore be denied. Moreover, the request of Owen County for sufficient revenues to produce a TIER of 1.5 on a calendar year basis would, if allowed by the Commission, in effect result in automatic rate requests annually by rural electric cooperatives whose TIER may fall below 1.5.

The responsibility of applying for rate relief in a timely manner rests with the management of the utility. Although the statutes contain a provision allowing the Commission to grant interim rate relief when justified, this provision should be utilized only when circumstances make it impossible to foresee impending financial difficulties. Failure on the part of the utility to request rate relief in a timely manner is detrimental to both the utility and its ratepayers and is ultimately burdensome and costly for all parties.

IT IS THEREFORE ORDERED that the request by Owen County
for an interim rate increase be and it hereby is denied.

Done at Frankfort, Kentucky, this 29th day of October, 1982.

PUBLIC SERVICE COMMISSION

Chairman Murrell did not
participate in this decision.
Chairman

Katharine Randall
Vice Chairman

L. W. Parry
Commissioner

ATTEST:

Secretary